



DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council pursuant to Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (1993), with particular adherence to Executive Order 13771, "Reducing Regulation and Controlling Costs," 82 FR 9339 (2017); Executive Order 13777, "Enforcing the Regulatory Reform Agenda," 82 FR 12285, and the Regulatory Flexibility Act, 5 U.S.C. sections 601 to 612. The purpose of publishing this agenda is to give notice of regulatory activity being undertaken by the FAR Council in order to provide the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: Lois Mandell, Division Director, Regulatory Secretariat Division, 1800 F Street, NW, 2nd Floor, Washington, DC 20405-0001, 202-501-2735.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under the Office of Federal Procurement Policy (OFPP) Act (41 U.S.C. 1303) and the Agencies' several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the Federal Register and produced electronically as Federal Acquisition Circulars (FACs).

The electronic version of the FAR, including changes, can be accessed on the FAR website at <http://www.acquisition.gov/far>.

The information provided in the Unified Agenda (Agenda) previews the rulemaking activities that we expect to undertake in the immediate future. The Agenda focuses primarily on those actions expected to result in publication of Advanced Notices of Proposed Rulemaking, Notices of Proposed Rulemaking, or Final Rules within the next 12 months.

A fully searchable e-Agenda is available for viewing in its entirety at www.reginfo.gov. Agenda information is also available at www.regulations.gov, the Governmentwide website for submission of comments on proposed regulations. Our fall 2018 agenda follows.

DATED: July 27, 2018.

NAME: William F. Clark,

Director,

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DOD/GSA/NASA (FAR)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
383	Federal Acquisition Regulation (FAR); FAR Case 2015-021; Determination of Fair and Reasonable Prices on Orders Under Multiple Award Contracts	9000-AM94
384	FAR Acquisition Regulation (FAR); FAR Case 2015-038, Reverse Auction Guidance	9000-AN31
385	Federal Acquisition Regulation (FAR); FAR Case 2017-005, Whistleblower Protection for Contractor Employees	9000-AN32
386	Federal Acquisition Regulation; FAR Case 2016-002, Applicability of Small Business Regulations Outside the United States	9000-AN34
387	Federal Acquisition Regulation (FAR); FAR Case 2016-011, Revision of Limitations on Subcontracting	9000-AN35
388	Federal Acquisition Regulation (FAR); FAR Case 2016-013, Tax on Certain Foreign Procurement	9000-AN38
389	Federal Acquisition Regulation (FAR); FAR Case 2017-003; Individual Sureties	9000-AN39
390	Federal Acquisition Regulations (FAR); FAR Case 2015-002, Requirements for DD Form 254, Contract Security Classification Specification	9000-AN40
391	Federal Acquisition Regulation (FAR); FAR Case 2017-014, Use of Acquisition 360 to Encourage Vendor Feedback	9000-AN43

392	Federal Acquisition Regulation (FAR); FAR Case 2017-013, Breaches of Personally Identifiable Information	9000–AN44
393	Federal Acquisition Regulation (FAR); FAR Case 2017-011, Section 508-Based Standards in Information and Communication Technology	9000–AN46
394	Federal Acquisition Regulation (FAR); FAR Case 2016-012, Incremental Funding of Fixed-Price Contracting Actions	9000–AN47
395	Federal Acquisition Regulation (FAR); FAR Case 2017-010, Evaluation Factors for Multiple-Award Contracts	9000–AN54
396	Federal Acquisition Regulation (FAR); FAR Case 2017-016, Controlled Unclassified Information (CUI)	9000–AN56
397	Federal Acquisition Regulation (FAR); FAR Case 2017-020, Ombudsman for Indefinite-Delivery Contracts	9000–AN58
398	Federal Regulation Acquisition (FAR); FAR Case 2017-019, Policy on Joint Ventures	9000–AN59
399	Federal Acquisition Regulation (FAR); FAR Case 2018-003, Credit for Lower-Tier Small Business Subcontracting	9000–AN61
400	Federal Acquisition Regulation (FAR); FAR Case 2018-002, Protecting Life in Global Health Assistance	9000–AN62
401	Federal Acquisition Regulation (FAR); FAR Case 2017-017, Rental Cost Analysis in Equipment Acquisitions	9000–AN63
402	Federal Acquisition Regulation (FAR); FAR Case 2018-004; Increased Micro-Purchase and Simplified Acquisition Thresholds	9000–AN65

403	Federal Acquisition Regulation (FAR); FAR Case 2018-006; Provisions and Clauses for Commercial Items and Simplified Acquisitions	9000–AN66
404	Federal Acquisition Regulation (FAR); FAR Case 2018-005, Modifications to Cost or Pricing Data and Reporting Requirements	9000–AN69
405	Federal Acquisition Regulation (FAR); FAR Case 2018-012, Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions	9000–AN71
406	Federal Acquisition Regulation (FAR); FAR Case 2018-013, Exemption of Commercial and COTS Item Contracts from Certain Laws and Regulations	9000–AN72
407	Federal Acquisition Regulation (FAR); FAR Case 2018-014, Increasing Task-Order Level Competition	9000–AN73
408	Federal Acquisition Regulation (FAR); FAR Case 2018-016, Lowest Price Technically Acceptable Source Selection Process	9000–AN75
409	Federal Acquisition Regulation (FAR); FAR Case 2018-018, Revision of Definition of “Commercial Item”	9000–AN76
410	Federal Acquisition Regulation (FAR); FAR Case 2018-019, Review of Commercial Clause Requirements and Flowdown	9000–AN77
411	Federal Acquisition Regulation (FAR); FAR Case 2018-020, Construction Contract Administration	9000–AN78
412	Federal Acquisition Regulation (FAR); FAR Case 2018-021, Reserve Officer Training Corps and Military Recruiting on	9000–AN79

	Campus	
413	Federal Acquisition Regulation (FAR); FAR Case 2018-022; Orders Issued Via Fax or Electronic Commerce	9000–AN80
414	Federal Acquisition Regulation (FAR); FAR Case 2018-023, Taxes – Foreign Contracts in Afghanistan	9000–AN81
415	Federal Acquisition Regulation (FAR); FAR Case 2018-024; Use of Interagency Fleet Management System Vehicles and Related Services	9000–AN82

DOD/GSA/NASA (FAR)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
416	Federal Acquisition Regulation (FAR); FAR Case 2013-002; Reporting of Nonconforming Items to the Government-Industry Data Exchange Program	9000–AM58
417	Federal Acquisition Regulation (FAR); FAR Case 2014-002; Set- Asides Under Multiple Award Contracts	9000–AM93
418	Federal Acquisition Regulation (FAR); FAR Case 2015-017; Combating Trafficking in Persons—Definition of “Recruitment Fees”	9000–AN02
419	Federal Acquisition Regulation: FAR Case 2016-005; Effective	9000–AN29

	Communication Between Government and Industry	
420	Federal Acquisition Regulation (FAR); FAR Case 2017-009, Special Emergency Procurement Authority	9000–AN45
421	Federal Acquisition Regulation (FAR); FAR Case 2017-006, Exception From Certified Cost or Pricing Data Requirements— Adequate Price Competition	9000–AN53
422	Federal Acquisition Regulation (FAR); FAR Case 2017-018, Violation of Arms Control Treaties or Agreements With the United States	9000–AN57
423	Federal Acquisition Regulation (FAR); FAR Case 2018-010, Use of Product and Services of Kaspersky Lab	9000–AN64
424	Federal Acquisition Regulation (FAR); FAR Case 2018-017, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment	9000–AN83

DOD/GSA/NASA (FAR)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
425	Federal Acquisition Regulation (FAR); FAR Case 2016-007, Non- Retaliation for Disclosure of Compensation Information	9000–AN10
426	Federal Acquisition Regulation (FAR); FAR Case 2015-005,	9000–AN19

	System for Award Management Registration	
427	Federal Acquisition Regulation (FAR); FAR Case 2015-039, Audit of Settlement Proposals	9000–AN26
428	Federal Acquisition Regulation (FAR); FAR Case 2017-001, Paid Sick Leave for Federal Contractors	9000–AN27
429	Federal Acquisition Regulation (FAR); FAR Case 2017-004, Liquidated Damages Rate Adjustment	9000–AN37
430	Federal Acquisition Regulation (FAR); FAR Case 2017-007, Task- and Delivery-Order Protests	9000–AN41
431	Federal Acquisition Regulation (FAR); FAR Case 2018-009, One Dollar Coins	9000–AN70

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)	Proposed Rule Stage

383. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2015–021; DETERMINATION OF FAIR AND REASONABLE PRICES ON ORDERS UNDER MULTIPLE AWARD CONTRACTS

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to direct ordering activity contracting officers to make a determination of fair and reasonable pricing when placing an order against GSA's Federal Supply Schedules (FSS). The Federal Acquisition Streamlining Act (FASA) of 1994 established a preference for the types of information used to assess price reasonableness.

This rule establishes a practice that will ensure that prices are fair and reasonable at the time the order is placed under the GSA's FSS. This Government-wide FAR rule will ensure uniform implementation of this FAR change across FAR-based contracts and avoid the proliferation of agency-wide rules and actions (e.g., revisions to FAR supplements or issuance of policy guidance) implementing this requirement.

Timetable:

Action	Date	FR Cite
NPRM	06/00/19	
NPRM Comment Period End	08/00/19	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AM94

384. FAR ACQUISITION REGULATION (FAR); FAR CASE 2015-038, REVERSE AUCTION GUIDANCE

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement policies addressing the effective use of reverse auctions. Reverse auctions involve offerors lowering their pricing over multiple rounds of bidding in order to win Federal contracts. This change incorporates guidance from the Office of Federal Procurement Policy (OFPP) memorandum, "Effective Use of Reverse Auctions," which was issued in response to recommendations from the GAO report, *Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings* (GAO-14-108). Reverse auctions are one tool used by Federal agencies to increase competition and reduce the cost of certain items. Reverse auctions differ from traditional auctions in that sellers compete against one another to provide the lowest price or highest-value offer to a buyer. This change to the FAR will include guidance that will standardize agencies' use of reverse auctions to help agencies maximize competition and savings when using reverse auctions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/19	
NPRM Comment Period End	03/00/19	

Regulatory Flexibility Analysis Required: Yes

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**385. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017–005,
WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES**

EO 13771 Designation: Fully or Partially Exempt

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement 41 U.S.C. 4712, "Enhancement of Contractor Protection From Reprisal for Disclosure of Certain Information" and makes the pilot program permanent. The pilot was enacted on January 2, 2013, by section 828 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013. The rule clarifies that contractors and subcontractors are prohibited from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing, to any of the entities such as agency Inspector Generals and Congress, information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract; a gross waste of Federal funds; an abuse of authority relating to a Federal contract; a substantial and specific danger to public health or safety; or a violation of law, rule, or regulation related to a Federal contract (including, the competition for or negotiation of a contract.) This rule enhances whistleblower protections for contractor employees, by making permanent the protection for disclosure of the aforementioned information, and ensuring that the prohibition on reimbursement for legal fees accrued in defense against reprisal claims applies to both contractors and subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	10/00/18	

NPRM Comment Period End	12/00/18	
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Regulatory Flexibility Analysis Required: Yes

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386. FEDERAL ACQUISITION REGULATION; FAR CASE 2016-002, APPLICABILITY OF SMALL BUSINESS REGULATIONS OUTSIDE THE UNITED STATES

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) consistent with SBA's regulation at 13 CFR 125.2 as finalized in its rule "Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation" issued on October 2, 2013, to clarify that overseas contracting is not excluded from agency responsibilities to foster small business participation.

In its final rule, SBA has clarified that, as a general matter, its small business contracting regulations apply regardless of the place of performance. In light of these changes, there is a need to amend the FAR both to bring its coverage into alignment with SBA's regulation and to give agencies the tools they need, especially the ability to use set-asides to maximize opportunities for small businesses overseas.

SBA has included contracts performed outside of the United States in agencies' prime contracting goals since FY 2016. Although inclusion for goaling purposes is not dependent on FAR changes, amending FAR part 19 will allow agencies to take advantage of the tools authorized for providing small business opportunities for contracts awarded outside of the United States.

This will make it easier for small businesses to receive additional opportunities for contracts performed outside of the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/00/19	
NPRM Comment Period End	03/00/19	

Regulatory Flexibility Analysis Required: Yes

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387. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2016-011, REVISION OF LIMITATIONS ON SUBCONTRACTING

EO 13771 Designation: Regulatory

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to revise and standardize the limitations on subcontracting, including the nonmanufacturer rule, that apply to small business concerns under FAR part 19 procurements. This proposed rule incorporates SBA's final rule that implemented the statutory requirements of section 1651 of the National Defense Authorization Act (NDAA) for Fiscal Year 2013. This action is necessary to meet the Congressional intent of clarifying the limitations on subcontracting with which small businesses must comply, as well as the ways in which they can comply. The rule will benefit both small businesses and Federal agencies. The rule will allow small businesses to take advantage of subcontracts with similarly situated entities. As a result, these small businesses will be able to compete for larger contracts, which would positively affect their potential for growth as well as that of their potential subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	10/00/18	
NPRM Comment Period End	12/00/18	

Regulatory Flexibility Analysis Required: Yes

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388. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2016–013, TAX ON CERTAIN FOREIGN PROCUREMENT

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 37; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement a final rule issued by the Department of the Treasury that implements section 301 of the James Zadroga 9/11 Health and Compensation Act of 2010, Public Law 111347. This section imposes on any foreign person that receives a specified Federal procurement payment a tax equal to two percent of the amount of such payment. This rule applies to foreign persons that are awarded Federal Government contracts to provide goods or services.

Timetable:

Action	Date	FR Cite
NPRM	02/00/19	
NPRM Comment Period End	04/00/19	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN38

389. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017-003; INDIVIDUAL SURETIES

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to change the kinds of assets that individual sureties must use as security for their individual surety bonds. This change implements section 874 of the National Defense Authorization Act (NDAA) for FY 2016 (Pub. L. 114-92), codified at 31 U.S.C. 9310, Individual Sureties. Individual sureties will no longer be able to pledge real property, corporate stocks, corporate bonds, or irrevocable letters of credit. The requirements of 31 U.S.C. 9310 are intended to strengthen the assets pledged by individual sureties, thereby mitigating risk to the Government.

Timetable:

Action	Date	FR Cite
NPRM	12/00/18	
NPRM Comment Period End	02/00/19	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN39

**390. FEDERAL ACQUISITION REGULATIONS (FAR); FAR CASE 2015–002,
REQUIREMENTS FOR DD FORM 254, CONTRACT SECURITY CLASSIFICATION
SPECIFICATION**

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to require the use of Department of Defense (DoD) Wide Area Workflow (WAWF) for the electronic submission of the DD Form 254, "Contract Security Classification Specification." This form is used to convey security requirements regarding classified information to contractors and subcontractors and must be submitted to the Defense Security Services (DSS) when contractors or subcontractors require access to classified information under contracts awarded by agencies that are covered by the National Industrial Security Program (NISP). By changing the submittal process of the form from a manual process to an automated one, the Government will reduce the cost of maintaining the forms, while also providing a centralized repository for classified contract security requirements and supporting data.

Timetable:

Action	Date	FR Cite
NPRM	01/00/19	
NPRM Comment Period End	03/00/19	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN40

391. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017–014, USE OF ACQUISITION 360 TO ENCOURAGE VENDOR FEEDBACK

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to address the solicitation of contractor feedback on both contract formation and contract administration activities. Agencies would consider this feedback, as appropriate, to improve the efficiency and effectiveness of their acquisition activities. The rule would create FAR policy to encourage regular feedback in accordance with agency practice (both for contract formation and administration activities) and a standard FAR solicitation provision to support a sustainable model for broadened use of the Acquisition 360 survey to elicit feedback on the pre-award and debriefing processes in a consistent and standardized manner. Agencies would be able to use the solicitation provision to notify interested sources that a procurement is part of the Acquisition 360 survey and encourage stakeholders to voluntarily provide feedback on their experiences on the pre-award process.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/18	83 FR 34820
ANPRM Comment Period End	09/21/18	

NPRM	03/00/19	
NPRM Comment Period End	05/00/19	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN43

392. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017-013, BREACHES OF PERSONALLY IDENTIFIABLE INFORMATION

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to create and implement appropriate contract clauses and regulatory coverage to address contractor requirements for a breach response consistent with the requirements. This FAR change will implement the requirements outlined in the Office of Management and Budget (OMB) Memorandum, M-17-12, "Preparing for and Responding to a Breach of Personally Identifiable Information," section V part B .

Timetable:

Action	Date	FR Cite

NPRM	02/00/19	
NPRM Comment Period End	04/00/19	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN44

393. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017-011, SECTION 508-BASED STANDARDS IN INFORMATION AND COMMUNICATION TECHNOLOGY

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to incorporate revisions and updates to standards in section 508 of the Rehabilitation Act of 1973, developed by the Architectural and Transportation Barriers Compliance Board (also referred to as the "Access Board"). This FAR change incorporates the U.S. Access Board's final rule, "Information and Communication Technology (ICT) Standards and Guidelines," published on January 18, 2017, which implemented revisions and updates to the section 508-based standards and section 255-based guidelines. This rule is expected to impose additional costs on Federal agencies. The purpose is to increase productivity for Federal employees with disabilities, time savings due to improved accessibility of federal web sites for members of the public with disabilities, and reduced call volumes to Federal agencies. Additionally, this rule harmonizes standards with national and international consensus standards this would assist American ICT

companies by helping them to achieve economies of scale created by a wider use of these technical standards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/19	
NPRM Comment Period End	06/00/19	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN46

394. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2016–012, INCREMENTAL FUNDING OF FIXED–PRICE CONTRACTING ACTIONS

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to allow for incremental funding of certain fixed-price contracting actions to help minimize disruptions to agency operations, and to provide Federal acquisition professionals with new funding flexibility for fixed-price contracting actions. The FAR addresses incremental funding on cost reimbursement contracts, however, it does not provide coverage on fixed price contracts.

Because the FAR is silent on the incremental funding of fixed-price contracts, contracting professionals endorse the full funding of fixed-price contracts as a best practice; however, in many cases full funding is not possible. Implementing this policy will provide the flexibility sought by several agencies. Although individual agencies have implemented their own policy changes in this regard, making this FAR change will provide consistency across all Government agencies.

Timetable:

Action	Date	FR Cite
NPRM	04/00/19	
NPRM Comment Period End	06/00/19	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN47

395. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017-010, EVALUATION FACTORS FOR MULTIPLE-AWARD CONTRACTS

EO 13771 Designation: Deregulatory

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 825 of the National Defense Authorization Act (NDAA) for FY 17

(Pub. L. 114-328). Section 825 amends 10 U.S.C. 2305(a)(3) to change the requirement regarding the consideration of cost or price to the Government as a factor in the evaluation of proposals for certain multiple-award task order contracts awarded by DoD, NASA, or the Coast Guard. At the Government's discretion, solicitations for multiple-award contracts, which intend to award the same or similar services to each qualifying offeror, do not require price or cost as an evaluation factor for the base contract award. This rule will streamline the award of contracts for DoD, NASA, and the Coast Guard because they will not be required to consider cost or price in the evaluation of the award decision. Relieving the requirement to account for cost or price when evaluating proposals for these types of contracts, which feature competitive orders, will enable procurement officials to focus their energy on establishing and evaluating the non-price factors that will result in more meaningful distinctions among offerors.

Timetable:

Action	Date	FR Cite
NPRM	09/24/18	83 FR 48271
NPRM Comment Period End	11/23/18	

Regulatory Flexibility Analysis Required: Yes

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396. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017–016, CONTROLLED UNCLASSIFIED INFORMATION (CUI)

EO 13771 Designation: Regulatory

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the National Archives and Records Administration (NARA) Controlled Unclassified Information (CUI) program of Executive Order 13556 of November 4, 2010. As the executive agent designated to oversee the Governmentwide CUI program, NARA issued implementing regulations in late 2016 designed to address Federal agency policies for designating, safeguarding, disseminating, marking, decontrolling and disposing of CUI. The NARA rule, which is codified at 32 CFR 2002, affects contractors that handle, possess, use, share or receive CUI. This FAR rule helps to ensure uniform implementation of the requirements of the CUI program in contracts across Government agencies.

Timetable:

Action	Date	FR Cite
NPRM	03/00/19	
NPRM Comment Period End	05/00/19	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN56

397. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017-020, OMBUDSMAN FOR INDEFINITE-DELIVERY CONTRACTS

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) by providing a new clause with contact information for the agency task and delivery order ombudsman as required by the FAR. Specifically, FAR 16.504(a)(4)(v) requires that the name, address, telephone number, facsimile number, and e-mail address of the agency task and delivery order ombudsman be included in solicitations and contracts for an indefinite quantity requirement, if multiple awards may be made for uniformity and consistency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/18	
NPRM Comment Period End	12/00/18	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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RIN: 9000-AN58

398. FEDERAL REGULATION ACQUISITION (FAR); FAR CASE 2017–019, POLICY ON JOINT VENTURES

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration (SBA), Small Business Mentor Protégé Programs, published on July 25, 2016 (81 FR 48557), regarding joint ventures and to clarify policy on 8(a) joint ventures. The regulatory changes provide industry with a new way to compete for small business or socioeconomic set-asides using a joint venture made up of a mentor and a protégé. The 8(a) joint venture clarification prevents confusion on an 8(a) joint venture's eligibility to compete for an 8(a) competitive procurement.

Timetable:

Action	Date	FR Cite
NPRM	02/00/19	
NPRM Comment Period End	04/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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Email: marilyn.chambers@gsa.gov

RIN: 9000–AN59

399. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–003, CREDIT FOR LOWER-TIER SMALL BUSINESS SUBCONTRACTING

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation to implement section 1614 of the National Defense Authorization Act (NDAA) of Fiscal Year 2014, as implemented in the Small Business Administration's final rule issued on December 23, 2016. Section 1614 allows other than small business prime contractors to receive small business subcontracting credit for subcontracts their subcontractors award to small businesses.

Timetable:

Action	Date	FR Cite
NPRM	05/00/19	
NPRM Comment Period End	07/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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Email: marilyn.chambers@gsa.gov

RIN: 9000–AN61

400. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–002, PROTECTING LIFE IN GLOBAL HEALTH ASSISTANCE

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Presidential Memorandum, entitled "The Mexico City Policy," issued on January 13, 2017, in accordance with the Department of State's implementation plan dated May 9, 2017. This rule would extend requirements of the memorandum and plans to new funding agreements for global health assistance furnished by all Federal departments or agencies. This expanded policy will cover global health assistance to include funding for international health programs, such as those for HIV/AIDS, maternal and child health, malaria, global health security, and certain family planning and reproductive health.

Timetable:

Action	Date	FR Cite
NPRM	01/00/19	
NPRM Comment Period End	03/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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RIN: 9000-AN62

401. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017-017, RENTAL COST ANALYSIS IN EQUIPMENT ACQUISITIONS

EO 13771 Designation: Fully or Partially Exempt

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch.137; 51 U.S. C. 20113

Abstract: DoD, GSA, and NASA issued a proposed rule to ensure short-term rental agreements are considered as part of the decision whether to lease or purchase equipment. This rule proposes to amend the FAR to add a factor to consider the cost-effectiveness of short-term versus long-term agreements (e.g., leases and rentals) to the list of minimum factors to be considered when an agency is deciding whether to lease or purchase equipment.

Timetable:

Action	Date	FR Cite
NPRM	09/05/18	83 FR 45072
NPRM Comment Period End	11/05/18	
Final Rule	06/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

Phone: 202 208-4949

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RIN: 9000-AN63

402. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–004; INCREASED MICRO–PURCHASE AND SIMPLIFIED ACQUISITION THRESHOLDS

EO 13771 Designation: Deregulatory

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a proposed rule to amend the FAR to implement sections 805, 806, and 1702(a) of the National Defense Authorization Act (NDAA) for FY 2018. Section 805 increases the micro-purchase threshold (MPT) to \$10,000 and limits the use of convenience checks to not more than one half of the MPT amount (i.e., \$5,000). Section 806 increases the simplified acquisition threshold (SAT) to \$250,000. Section 1702(a) amends section 15(j)(1) of the Small Business Act (15 U.S.C. 644(j)(1)) to replace specific dollar thresholds with the terms micro-purchase threshold and simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
NPRM	10/00/18	
NPRM Comment Period End	12/00/18	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

Phone: 202 208–4949

Email: michaelo.jackson@gsa.gov

RIN: 9000–AN65

403. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–006; PROVISIONS AND CLAUSES FOR COMMERCIAL ITEMS AND SIMPLIFIED ACQUISITIONS

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C.20113

Abstract: DoD, GSA, and NASA are proposing to implement section 820 of the National Defense Authorization Act (NDAA) for FY 2018. Section 820 amends 41 U.S.C. 1906(c)(1) to change the definition of "subcontract" in certain circumstances. This rule also implements a new approach to the prescription and flowdown for provisions and clauses applicable to acquisitions of commercial items or acquisitions that do not exceed the simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
NPRM	04/00/19	
NPRM Comment Period End	06/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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RIN: 9000–AN66

404. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–005, MODIFICATIONS TO COST OR PRICING DATA AND REPORTING REQUIREMENTS

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to increase the Truth in Negotiation Act (TINA) threshold to \$2 million and require other than certified cost or pricing data. The rule reduces the burden on contractors because they would not be required to certify their cost or pricing data between \$750,000 and \$2 million. This change implements section 811 of the National Defense Authorization Act (NDAA) for FY 2018. Section 811 modifies 10 U.S.C. 2306a and 41 U.S.C. 3502.

Timetable:

Action	Date	FR Cite
NPRM	01/00/19	
NPRM Comment Period End	03/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

Phone: 202 969-7185

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RIN: 9000-AN69

**405. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-012, RIGHTS TO
FEDERALLY FUNDED INVENTIONS AND LICENSING OF GOVERNMENT-OWNED
INVENTIONS**

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the FAR to implement the changes to 37 CFR parts 401 and 404, "Rights to Federally Funded Inventions and Licensing of Government Owned Inventions," dated May 14, 2018. The changes reduce regulatory burdens, provide greater clarity to large businesses by codifying the applicability of Bayh-Dole as directed in Executive Order 12591, and provide greater clarity to all federal funding recipients by updating regulatory provisions to align with provisions of the Leahy-Smith America Invents Act in terms of definitions and time frames.

Timetable:

Action	Date	FR Cite
NPRM	02/00/19	
NPRM Comment Period End	04/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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Email: cecelia.davis@gsa.gov

RIN: 9000-AN71

406. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-013, EXEMPTION OF COMMERCIAL AND COTS ITEM CONTRACTS FROM CERTAIN LAWS AND REGULATIONS

EO 13771 Designation: Deregulatory

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch.137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement paragraph (a) of section 839 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019. Paragraph (a) requires the FAR Council to review each past determination made not to exempt contacts and subcontracts for commercial products, commercial services, and commercially available off-the-shelf (COTS) items from certain laws when these contracts would otherwise have been exempt under 41 U.S.C. 1906(d) or 41 U.S.C. 1907(b). The FAR Council or the Administrator for Federal Procurement Policy has to determine whether there still exists specific reason not to provide exemptions from certain laws. If no determination is made to continue to exempt commercial contracts and subcontracts from certain laws, paragraph (a) requires that revisions to the FAR be proposed, to reflect exemptions from those laws. Paragraph (a) requires these revisions to be proposed within one year of the date of enactment of section 839.

Timetable:

Action	Date	FR Cite
NPRM	07/00/19	
NPRM Comment Period End	09/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW., Washington, DC 20405

Phone: 703 605-2868

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407. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-014, INCREASING TASK-ORDER LEVEL COMPETITION

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Section 876 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which would provide civilian agencies with an exception to the existing statutory requirement to include price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals for all contracts. The exception would only apply to IDIQ contracts and to Federal Supply Schedule contracts for services that are priced at an hourly rate. Furthermore, the exception would only apply in those instances where the Government intends to make a contract award to all qualifying offerors, thus affording maximum opportunity for effective competition at the task order level. An offeror would be qualified only if it is a responsible source and submits a proposal that conforms to the requirements of the solicitation, meets any technical requirements, and is otherwise eligible for award.

Timetable:

Action	Date	FR Cite
NPRM	02/00/19	
NPRM Comment Period End	04/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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RIN: 9000-AN73

408. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-016, LOWEST PRICE TECHNICALLY ACCEPTABLE SOURCE SELECTION PROCESS

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Section 880 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 to avoid using lowest price technically acceptable source selection criteria in circumstances that would deny the Government the benefits of cost and technical tradeoffs in the source selection process.

Timetable:

Action	Date	FR Cite
NPRM	03/00/19	
NPRM Comment Period End	05/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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RIN: 9000-AN75

409. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-018, REVISION OF DEFINITION OF “COMMERCIAL ITEM”

EO 13771 Designation: Other

Legal Authority: 40 U.S.C.121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to separate the commercial item definition into definitions of commercial product and commercial service. Section 836 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115-232) set the effective date of the new definitions to January 1, 2020. This is consistent with the recommendations by the independent panel created by Section 809 of the NDAA for FY 2016 (Public Law 11492). This case implements amendment to 41 U.S.C. 103.

Timetable:

Action	Date	FR Cite
NPRM	04/00/19	
NPRM Comment Period End	06/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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RIN: 9000–AN76

410. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–019, REVIEW OF COMMERCIAL CLAUSE REQUIREMENTS AND FLOWDOWN

EO 13771 Designation: Deregulatory

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement paragraphs (b) and (c) of section 839 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019.

Paragraph (b) requires the FAR Council to review the FAR to assess every regulation that requires a specific clause in contracts for commercial products or commercial services, unless the regulation is required by law or Executive Order. Paragraph (b) also requires that revisions to the FAR be proposed to eliminate those regulations unless the FAR Council makes a determination not to eliminate a regulation.

Paragraph (c) requires the FAR Council to review the FAR to assess every regulation that requires a prime contractor to include specific clause in subcontracts for commercially available off-the-shelf items, unless the clause is required by law or Executive Order. Paragraph (c) also requires that revisions to the FAR be proposed to eliminate those regulations unless the FAR Council makes a determination not to eliminate a regulation.

Paragraphs (b) and (c) require these revisions to be proposed within one year of the date of the enactment of section 839.

Timetable:

Action	Date	FR Cite
NPRM	07/00/19	
NPRM Comment Period End	09/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW., Washington, DC 20405

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RIN: 9000-AN77

**411. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-020,
CONSTRUCTION CONTRACT ADMINISTRATION**

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: Implements section 855 of the NDAA for FY 2019 (Pub. L. 115-232). Section 855 requires, for solicitations for construction contracts anticipated to be awarded to a small business, notification to prospective offerors regarding agency policies or practices in complying with FAR requirements relating to the timely definitization of requests for equitable adjustment and agency past performance in definitizing such requests.

Timetable:

Action	Date	FR Cite

NPRM	04/00/19	
NPRM Comment Period End	06/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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RIN: 9000–AN78

412. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–021, RESERVE OFFICER TRAINING CORPS AND MILITARY RECRUITING ON CAMPUS

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the requirements at 10 U.S.C. 983, which prohibits the award of certain Federal contracts or grants to institutions of higher education that prohibit Senior Reserve Officer Training Corps units or military recruiting on campus.

Timetable:

Action	Date	FR Cite
NPRM	05/00/19	
NPRM Comment Period End	07/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

Phone: 202 219-0202

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RIN: 9000-AN79

413. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-022; ORDERS ISSUED VIA FAX OR ELECTRONIC COMMERCE

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA and NASA are proposing to amend the Federal Acquisition Regulation (FAR) clause 52.216-18, Ordering, to authorize issuance of orders via fax or email and clarify when an order is considered to be issued when utilizing these methods.

Timetable:

Action	Date	FR Cite
NPRM	05/00/19	
NPRM Comment Period End	07/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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RIN: 9000–AN80

**414. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–023, TAXES –
FOREIGN CONTRACTS IN AFGHANISTAN**

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the provisions on taxes, duties, and fees contained in the Security and Defense Cooperation Agreement (dated 2014) and the North Atlantic Treaty Organization Status of Forces Agreement (dated 2014) with Afghanistan.

Timetable:

Action	Date	FR Cite
NPRM	05/00/19	
NPRM Comment Period End	07/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F
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RIN: 9000–AN81

**415. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–024; USE OF
INTERAGENCY FLEET MANAGEMENT SYSTEM VEHICLES AND RELATED SERVICES**

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA and NASA are proposing to amend the Federal Acquisition Regulation (FAR) clause 52.251-1, Interagency Fleet Management System Vehicles and Related Services, to provide contractors that have been authorized to use fleet vehicles with additional information on how to request the vehicles from the Government.

Timetable:

Action	Date	FR Cite
NPRM	05/00/19	
NPRM Comment Period End	07/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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RIN: 9000–AN82

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)	Final Rule Stage

**416. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2013-002; REPORTING OF
NONCONFORMING ITEMS TO THE GOVERNMENT-INDUSTRY DATA EXCHANGE
PROGRAM**

EO 13771 Designation: Regulatory

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to expand Government and contractor requirements for the reporting of nonconforming items. This rule partially implements section 818 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012 and implement requirements of the Office of Federal Procurement Policy (OFPP) Policy Letter 91-3, entitled "Reporting Nonconforming Products," dated April 9, 1991. This change will help mitigate the growing threat that counterfeit items pose when used in systems vital to an agency's mission. The primary benefit of this rule is to reduce the risk of counterfeit items entering the supply chain by ensuring that contractors report suspect items to a widely available database. This will allow the contracting officer to provide disposition instructions for counterfeit or suspect counterfeit items in accordance with agency policy. In some cases, agency policy may require the contracting officer to direct the contractor to retain such items for investigative or evidentiary purposes.

Timetable:

Action	Date	FR Cite
NPRM	06/10/14	79 FR 33164
NPRM Comment Period End	08/11/14	
Final Rule	01/00/19	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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RIN: 9000–AM58

417. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2014–002; SET-ASIDES UNDER MULTIPLE AWARD CONTRACTS

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement regulatory changes regarding procedures for the use of small business partial set-asides, reserves, and orders placed under multiple-award contracts. This rule incorporates statutory requirements in section 1331 of the Small Business Jobs Act of 2010 (15 U.S.C. 644(r)) and regulatory requirements in the Small Business Administration's final rule dated October 2, 2013.

Due to their inherent flexibility, competitive nature, and administrative efficiency, multiple award contracts are commonly used in Federal procurement. They have proven to be an effective means of contracting for large quantities of supplies and services for which the quantity and delivery requirements cannot be definitively determined at contract award. However, prior to 2011, the FAR was largely silent on the use of acquisition strategies to promote small business participation in conjunction with multiple-award contracts. This rule increases small business participation in Federal prime contracts by ensuring that small businesses have greater access to multiple award contracts, clarifying the procedures for partially setting aside and reserving multiple-award contracts for small business; and setting aside orders placed under multiple-award contracts for small business. This rule ensures that small businesses will have greater access to these commonly used vehicles.

Timetable:

Action	Date	FR Cite
NPRM	12/06/16	81 FR 88072
NPRM Comment Period End	02/06/17	
Final Rule	12/00/18	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AM93

418. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2015–017; COMBATING TRAFFICKING IN PERSONS—DEFINITION OF “RECRUITMENT FEES”

EO 13771 Designation: Regulatory

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement Executive Order 13627, Strengthening Protections Against Trafficking in Persons in Federal Contracts, and title XVII of the National Defense Authorization Act for Fiscal Year 2013. The rule adds a definition of “recruitment fees” to FAR subpart 22.17, Combating Trafficking in Persons, and the associated clauses to provide a standardized definition that clarifies what prohibited recruitment fees are in order to help prevent human trafficking.

Timetable:

Action	Date	FR Cite
NPRM	05/11/16	81 FR 29244
NPRM Comment Period End	07/11/16	
Final Rule	10/00/18	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN02

**419. FEDERAL ACQUISITION REGULATION: FAR CASE 2016-005; EFFECTIVE
COMMUNICATION BETWEEN GOVERNMENT AND INDUSTRY**

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement section 887 of the NDAA for FY 2016 (Pub. L. 114-92). This law provides that Government acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry. This change will permit and encourage Government acquisition personnel to engage in responsible and constructive exchanges with industry as part of market research as long as those exchanges are consistent with existing laws and regulations, and promote a fair competitive environment.

Timetable:

Action	Date	FR Cite
NPRM	11/29/16	81 FR 85914
NPRM Comment Period End	03/02/17	
Final Rule	04/00/19	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN29

**420. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017–009, SPECIAL
EMERGENCY PROCUREMENT AUTHORITY**

EO 13771 Designation: Deregulatory

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement sections of the National Defense Authorization Act (NDAA) for Fiscal Year 2017 to expand special emergency procurement authorities for acquisitions of supplies or services that facilitate defense against or recovery from a cyber attack, provide international disaster assistance under the Foreign Assistance Act of 1961, or support response to an emergency or major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Timetable:

Action	Date	FR Cite
NPRM	06/26/18	83 FR 29736
NPRM Comment Period End	08/27/18	
Final Rule	03/00/19	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN45

421. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017–006, EXCEPTION FROM CERTIFIED COST OR PRICING DATA REQUIREMENTS—ADEQUATE PRICE COMPETITION

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 822 of the National Defense Authorization Act (NDAA) for FY 2017 (Pub. L. 114-328). This rule applies to DoD, NASA, and the Coast Guard, and implements exceptions for these agencies at FAR 15.403(c)(1) from certified cost or pricing data requirements when price is based on adequate price competition. This rule also limits the exception for price based on adequate price competition to circumstances in which there is adequate competition that results in at least two or more responsive and viable competing bids.

Timetable:

Action	Date	FR Cite
NPRM	06/12/18	83 FR 27303
NPRM Comment Period End	08/13/18	
Final Rule	04/00/19	

Regulatory Flexibility Analysis Required: Yes

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422. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017-018, VIOLATION OF ARMS CONTROL TREATIES OR AGREEMENTS WITH THE UNITED STATES

EO 13771 Designation: Fully or Partially Exempt

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 1290(c)(3) of the National Defense Authorization Act (NDAA) for FY 2017, which requires an offeror or any of its subsidiaries to certify that it does not engage in any activity that contributed to or is a significant factor in the determination that a country is not in full compliance with its obligations undertaken in all arms control, nonproliferation, and disarmament agreements or commitments in which the United States is a participating state.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/18	83 FR 28145
Interim Final Rule Comment Period End	08/14/18	

Final Rule	04/00/19	
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Regulatory Flexibility Analysis Required: Yes

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423. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-010, USE OF PRODUCT AND SERVICES OF KASPERSKY LAB

EO 13771 Designation: Fully or Partially Exempt

Legal Authority: 40 U.S.C 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 1634 of the National Defense Authorization Act (NDAA) of Fiscal Year 2018 to prohibit any department, agency, organization, or other element of the Federal government from using products and services developed or provided by Kaspersky Lab or any entity in which Kaspersky Lab has a majority ownership.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/18	83 FR 28141
Interim Final Rule Comment	08/14/18	

Period End		
Final Rule	04/00/19	

Regulatory Flexibility Analysis Required: Yes

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424. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–017, PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 889 of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115-232). Section 889 prohibits the procurement or use of covered telecommunications equipment and services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Technology Company or Dahua Technology Company, to include any subsidiaries or affiliates. This FAR rule is needed to protect U.S. networks against cyber activities conducted through Chinese Government-supported telecommunications equipment and services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/19	
Interim Final Rule Comment Period End	04/00/19	

Regulatory Flexibility Analysis Required: Yes

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DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)	Completed Actions

**425. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2016-007, NON-
RETALIATION FOR DISCLOSURE OF COMPENSATION INFORMATION**

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA issued a final rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order 13665, entitled "Non-Retaliation for Disclosure of Compensation Information," and the final rule issued by the Office of Federal Contract Compliance Programs (OFCCP) of the Department of Labor (DOL) entitled, "Government Contractors, Prohibitions Against Pay Secrecy Policies and Actions."

This rule provides for a uniform Federal Government policy to prohibit Federal contractors from discriminating against their employees and job applicants who inquire about, discuss, or disclose their own compensation or the compensation of other employees or applicants.

Completed:

Reason	Date	FR Cite
Final Rule	08/22/18	83 FR 42570
Final Action Effective	08/22/18	

Regulatory Flexibility Analysis Required: Yes

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426. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2015-005, SYSTEM FOR AWARD MANAGEMENT REGISTRATION

EO 13771 Designation: Fully or Partially Exempt

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to update the instructions for System for Award Management (SAM) registration requirements and to correct an inconsistency with offeror representation and certification requirements. The language in the FAR was not consistent with respect to whether offerors are required to register in SAM prior to submitting an offer or prior to being awarded a contract. This rule clarifies and makes the language consistent by requiring offerors to register in SAM prior to submitting an offer. The rule does not place any new requirements on businesses and is considered administrative because the only change is clarifying when an offeror must register in SAM. Registering in SAM eliminates the need for offerors to complete representations and certifications multiple times a year when responding to solicitations, which reduces the burden on both the contractor and the Government.

Completed:

Reason	Date	FR Cite
Final Rule	09/26/18	83 FR 48691
Final Rule Effective	10/26/18	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN19

427. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2015-039, AUDIT OF SETTLEMENT PROPOSALS

EO 13771 Designation: Deregulatory

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to raise the dollar threshold requirement for the audit of prime contract settlement proposals and subcontract settlements from \$100,000 to align with the threshold for obtaining certified cost or pricing data.

Completed:

Reason	Date	FR Cite
Final Rule	05/01/18	83 FR 19149
Final Rule Effective	05/31/18	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN26

**428. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017-001, PAID SICK
LEAVE FOR FEDERAL CONTRACTORS**

EO 13771 Designation: Other

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA issued a final rule to amend the Federal Acquisition Regulation (FAR) requiring Federal Government contractors to ensure that its employees working on those contracts can earn up to seven days or more of paid sick leave annually, including paid sick leave for family care. This rule implements the objective of Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors, and the Department of Labor's final rule.

Completed:

Reason	Date	FR Cite
Final Rule	08/22/18	83 FR 42569
Final Action Effective	08/22/18	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN27

429. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017-004, LIQUIDATED DAMAGES RATE ADJUSTMENT

EO 13771 Designation: Fully or Partially Exempt

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA issued a final rule amending the Federal Acquisition Regulation (FAR) to adjust the civil monetary penalties for inflation pursuant to the Inflation Adjustment Act

Improvements Act. This Act requires agencies to adjust the levels of civil monetary penalties with an initial catch-up adjustment, followed by the annual adjustment for inflation.

This rule implements the Department of Labor (DOL) interim final rule published in the Federal Register on July 1, 2016 and finalized on January 18, 2017. The DOL rule adjusted the civil monetary penalties for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114-74).

Completed:

Reason	Date	FR Cite
Final Rule	05/01/18	83 FR 19148
Final Rule Effective	05/31/18	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN37

430. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017-007, TASK- AND DELIVERY-ORDER PROTESTS

EO 13771 Designation: Deregulatory

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA issued a final rule amending the Federal Acquisition Regulation (FAR) to raise the dollar threshold for task- and delivery-order protests from \$10 million to \$25 million for DoD contracts and to make permanent the General Accountability Office's authority to hear protests on civilian task or delivery contracts valued in excess of \$10 million. The rule implements sections 835 of the National Defense Authorization Act (NDAA) for FY 2017 (Pub. L. 114-328) and Public Law 114-260, section 835(a).

Completed:

Reason	Date	FR Cite
Final Rule	05/01/18	83 FR 19145
Final Rule Effective	05/31/18	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN41

431. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-009, ONE DOLLAR COINS

EO 13771 Designation: Fully or Partially Exempt

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to implement section 885 of the National Defense Authorization Act (NDAA) for FY 2018. Section 885 amends 31 U.S.C. 5112(p) to provide an exception for business operations from requirements to accept \$1 coins.

Completed:

Reason	Date	FR Cite
Direct Final Rule	09/26/18	83 FR 48700
Direct Final Rule Effective	10/26/18	

Regulatory Flexibility Analysis Required: Yes

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